

ANDREW L. PACKARD (State bar No. 168690)  
MEGAN E. TRUXILLO (State bar No. 275746)  
WILLIAM N. CARLON (State Bar No. 305739)  
Law Offices of Andrew L. Packard  
100 Petaluma Blvd. N., Suite 301  
Petaluma, CA 94952  
Tel: (707) 763-7227  
Fax: (707) 763-9227  
Email: Andrew@packardlawoffices.com  
Megan @ packardlawoffices.com

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FREDRIC EVENSON (State Bar No. 198059)  
Ecology Law Center  
P.O. Box 1000  
Santa Cruz, CA 95061  
Tel: (831) 454-8216  
Email: Evenson@ecologylaw.com

Attorneys for Plaintiff  
ECOLOGICAL RIGHTS FOUNDATION

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ECOLOGICAL RIGHTS  
FOUNDATION, a non-profit  
corporation,

Plaintiff,

vs.

PENINSULA CORRIDOR JOINT  
POWERS BOARD,  
TRANSITAMERICA SERVICES, INC.,

Defendants.

Case No. 5:16-cv-01121

**STIPULATION TO DISMISS  
PLAINTIFF'S CLAIMS WITH  
PREJUDICE; ~~PROPOSED~~ ORDER  
GRANTING DISMISSAL WITH  
PREJUDICE [FRCP 41(a)(2)]**

Plaintiff Ecological Rights Foundation ("EcoRights") and Defendants Peninsula Corridor Joint Powers Board and TransitAmerica Services, Inc. (collectively "Defendants") in the above-captioned action stipulate as follows:

WHEREAS, on or about May 15, 2015, EcoRights provided Defendants with a Notice of Violations and Intent to File Suit ("60-Day Notice Letter") under Section 505 of

1 the Federal Water Pollution Control Act (“Act” or “Clean Water Act”), 33 U.S.C. § 1365;

2 WHEREAS, on March 7, 2016, EcoRights filed its Complaint against Defendants in  
3 this Court, and said Complaint incorporated by reference all of the allegations contained in  
4 EcoRights’ 60-Day Notice Letters;

5 WHEREAS, EcoRights and Defendants, through their authorized representatives and  
6 without either adjudication of EcoRights’ claims or admission by Defendants of any alleged  
7 violation or other wrongdoing, have chosen to resolve in full by way of settlement the  
8 allegations of EcoRights as set forth in EcoRights’ 60-Day Notice Letter and Complaint,  
9 thereby avoiding the costs and uncertainties of further litigation. A copy of the Parties’  
10 proposed consent agreement (“Consent Agreement”) entered into by and between EcoRights  
and Defendants is attached hereto as **Exhibit A** and incorporated by reference;

11 WHEREAS, EcoRights has submitted the Consent Agreement via certified mail,  
12 return receipt requested, to the U.S. EPA and the U.S. Department of Justice (“the agencies”)  
13 and the 45-day review period set forth at 40 C.F.R. § 135.5 has now expired;

14 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between  
15 the Parties that EcoRights’ claims, as set forth in its 60-Day Notice Letter and Complaint, be  
16 dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). The Parties  
17 respectfully request an order from this Court dismissing such claims with prejudice. In  
18 accordance with Paragraph 18 of the Consent Agreement, the Parties also request that this  
19 Court retain and have jurisdiction over the Parties through July 31, 2018, for the sole purpose  
20 of resolving any disputes between the Parties with respect to enforcement of any provision of  
21 the Consent Agreement.

22 Dated: April 28, 2016

Respectfully submitted,

23 LAW OFFICES OF ANDREW L. PACKARD

24 By: /s/ Andrew L. Packard

25 Andrew L. Packard

26 Attorneys for Plaintiff

27 ECOLOGICAL RIGHTS FOUNDATION  
28

1 Dated: April 28, 2016

HANSON BRIDGETT LLP

2 By: /s/ Christopher D. Jensen

3 Christopher D. Jensen, Esq.

Attorneys for Defendant

Peninsula Corridor Joint Powers Board

4 Dated: April 28, 2016

DUNN & DAVISON, LLC

5 By: /s/ Andrew J. Liles

6 Andrew J. Liles, Esq.

7 Attorneys for Defendant

TransitAmerica Services, Inc.

8  
9 Dated: April 28, 2016

KLINEDINST PC

10 By: /s/ Christopher D. Jensen, Esq.

11 Carey L. Cooper, Esq.

12 Attorneys for Defendant

13 TransitAmerica Services, Inc.

~~**PROPOSED ORDER**~~

Good cause appearing, and the Parties having stipulated and agreed, IT IS HEREBY ORDERED that Plaintiff ECOLOGICAL RIGHTS FOUNDATION'S claims against Defendants PENINSULA CORRIDOR JOINT POWERS BOARD and TRANSITAMERICA SERVICES, INC., as set forth in Plaintiff's 60-Day Notice Letter and Complaint, are hereby dismissed with prejudice, each side to bear its own attorney fees and costs, except as provided for by the terms of the ~~accompanying~~ Consent Agreement.

IT IS FURTHER ORDERED that the Court shall retain and have jurisdiction over the Parties solely with respect to disputes arising under the Consent Agreement ~~(attached to the~~ <sup>filed separately</sup> ~~Parties' Stipulation to Dismiss as Exhibit A)~~ <sup>at Dkt. No. 11</sup> until July 31, 2018.

IT IS SO ORDERED.

Dated: 5/9/16

  
UNITED STATES ~~DISTRICT COURT~~ JUDGE  
Magistrate